PAGE 24

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Supp. Court

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SUPREME COURT OF THE UNITED STATES

OCTOBER TERM 1980

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DURKIN WOODRUFF
Petitioner

V.

HARRY L. ALLSBROOK, ET. AL.,
Respondents

****

REPLY BRIEF TO RESPONDENT'S BRIEF
(80-6508)

****

Pursuant to the appropriate United States Code and/or Rules of the Court, the petitioner presents the following in clearification on matters that have been stated by the respondent's in their brief to the Court.

/s/ Durkin Woodruff

DURKIN WOODRUFF (PRO SE)
ROUTE 1, BOX 36
JACKSON, NORTH CAROLINA 27845

SUPREME COURT OF THE UNITED STATES

OCTOBER TERM 1980

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DURKIN WOODRUFF
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The Petitioner, presents this reply brief to the Court to clear a matter that has been stated by the Respondent's. The petitioner has no knowledge if this procedure is in accord with the Rules of the Court, but if same is not, petitioner prays the Honorable Clerk will properly advise.

1. The petitioner had been originally charged with the greater offense of armed robbery, which is in violation of North Carolina General Statutes 14-87. The decisions of the Court below was in error and this Court should resolve issues. From the respondent'a exhibits, the Court will see at (A-6) the trial Court stated;

> " Q- As I remember, you are charged in the Bill of Indictment with an attempt to committ armed robbery. Do you understand that an attempt to commit armed robbery is an attempt to take and carry away the personal property of another, from his person or from his presence, without his consent, by endangering or threatening his life with a firearm, the taker knowing that he is not entitled to take the property, and intending to deprive the other of the use of the property permanently? Do you understand that that is what you are charged with? "

This was not correct, as the Indictment clearly showed that the petitioner was indicted for ARMED ROBBERY. The indictment further stated that the petitioner did",.. Did then and there unlawfully, wilfully, forcefully, violently and feloniously take, steal, and carry away, and did attempt to take, steal and carry away money for the cash register.." This brings up fact of which was petitioner charged with and was the plea voluntary, and was the indictment in reality fully explained to him for a complete determination on the plea.

2. The respondent's on page four of their brief have stated in part;

> " On the 28 April 1978, petitioner moved to vacate his sentence on the ground that he had been promised a seven-ten year sentence sentence. In a later filing in November 1978, he alleged his promised sentence was to be either seven-ten years or twelve - fifteen years."

The petitioner wish to state to the Court that if any of the legal writ writters at prison stated such it was inadvertantly done as the writ writers work on a lot of cases and in many cases, they will cross up one persons case with another, that can be well understood as this petitioner is not a writ writter, can barely read and is at present time in the Prison's Adult Basic Education program.

3. The respondent's have not addressed the issue of the attorney.

This The 2nd Day Of June 1981.

Respectfully submitted,

/s/ Durkin Woodruff
Durkin Woodruff

SWORN TO AND SUBSCRIBED BEFORE ME

THIS THE 2nd DAY OF June 1981

George T. Hamill
NOTARY PUBLIC

MY COMMISSION EXPIRES 12-19-1982